

TEXT OF FINAL REGULATIONS

TITLE 3. CALIFORNIA CODE OF REGULATIONS
DIVISION 6. PESTICIDES AND PEST CONTROL OPERATIONS
CHAPTER 1. PESTICIDE REGULATORY PROGRAM
SUBCHAPTER 1. DEFINITION OF TERMS
ARTICLE 1. DEFINITIONS FOR DIVISION 6

6000. Definitions.

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"Artificial recharge basin" means a surface facility, such as an infiltration pond or basin, or spreading ground specifically designed and managed to increase the infiltration of introduced surface water supplies into a ground water basin. "Artificial recharge basin" does not include ditches, canals, or reservoirs designed primarily to transport and store water, or stream channels, lakes, and other naturally occurring water bodies that are not principally managed to recharge ground water.

"Engineered rights-of-way" means areas within a ground water protection area that are constructed in a way that results in increased runoff and collection of storm water, such as railroad ballasts and berms, public roadsides, and highway median strips or similar areas, but not canal or ditch banks or utility lines.

"Evapotranspiration" is the combination of water transpired from vegetation and evaporated from the soil and plant surfaces. Evapotranspiration data can be obtained from the California Irrigation Management Information System (CIMIS) or other local sources.

"Field capacity" is the amount of water remaining in soil when the downward water flow due to gravity becomes negligible.

"Ground water protection area" means an area of land that has been determined by the Director to be vulnerable to the movement of pesticides to ground water, as identified in the Department of Pesticide Regulation document EH03-05 (Est. 08/03), hereby incorporated by reference, entitled "Ground Water Protection Areas," in Appendix I. The determination of a ground water protection area is based on factors, such as soil type, climate, and depth to the ground water, that are characteristic of areas where legally applied pesticides or their breakdown products have been detected and verified in ground water.

"Leaching ground water protection areas" are sections of land designated as "leaching" in the Department of Pesticide Regulation document EH03-05 (Est.08/03), hereby incorporated by reference, entitled "Ground Water Protection Areas," where pesticide residues move from the soil surface downward through the soil matrix with percolating water to ground water.

"Net irrigation requirement" is the amount of water needed to bring the soil in the crop root zone to field capacity at the time of irrigation. It can be determined by direct measurements of soil moisture, such as by using tensiometers, or indirect measurements of soil moisture, such as by estimating evapotranspiration that has accumulated since the last irrigation.

"Runoff ground water protection areas" are sections of land designated as "runoff" in the Department of Pesticide Regulation document EH03-05 (Est. 08/03) hereby incorporated by reference, entitled "Ground Water Protection Areas," where pesticide residues are carried in runoff water to more direct routes to ground water such as dry or drainage wells, poorly sealed production wells, or soil cracks, or to areas where leaching can occur.

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NOTE: Authority cited: Sections 11456, 11502, 12111, 12781, 12976, 12981, 13145, 14001, and 14005, Food and Agricultural Code.

Reference: Sections 11401.2, 11408, 11410, 11501, 11701, 11702(b), 11704, 11708(a), 12042(f), 12103, 12971, 12972, 12973, 12980, 12981, 13145, 13146 and 14006, Food and Agricultural Code.

CHAPTER 2. PESTICIDES

SUBCHAPTER 4.RESTRICTED MATERIALS

ARTICLE 2. POSSESSION AND USE LIMITATIONS

6416. Groundwater Protection Restrictions.

(a) A permit is required for the possession or use of a pesticide containing a chemical listed in section 6800(a) when the pesticide is:

(1) applied in an agricultural, outdoor institutional, or outdoor industrial use within a runoff ground water protection area or in a leaching ground water protection area, or

(2) restricted for purposes other than ground water protection.

(b) A permit is not required for the possession or use of a pesticide containing a chemical listed in section 6800(a) when the pesticide is used in a pest eradication program approved by the Department of Food and Agriculture, unless the pesticide is also restricted for purposes other than ground water protection.

(c) Notwithstanding the provisions of this article and Article 4, the chemicals listed in section 6800(a) may be applied for research or experimental purposes pursuant to a valid research authorization. The applicant must provide the location of the research or experimental site with the research authorization request. The exemptions found in section 6268 do not apply when a person wishes to use these chemicals for research or experimental purposes.

NOTE: Authority cited: Sections 11456, 12976, 13145, 14004.5, 14005, 14006, and 14102, Food and Agricultural Code.

Reference: Sections 11501, 13145, 13150, 14004.5, 14005, and 14006, Food and Agricultural Code.

CHAPTER 2. PESTICIDES
SUBCHAPTER 4. RESTRICTED MATERIALS
ARTICLE 4. USE REQUIREMENTS

6457. Bentazon (Basagran).

In addition to the restrictions specified in sections 6487.1, 6487.2, 6487.3, and 6487.4, the following restrictions apply for agricultural, outdoor institutional, and outdoor industrial uses of bentazon for the purpose of ground water protection:

- (a) Bentazon shall not be applied in Del Norte or Humboldt Counties.
- (b) Bentazon shall not be used in the production of rice.

NOTE: Authority cited: Sections 11456, 12976, 13145, 14005 and 14006, Food and Agricultural Code.

Reference: Sections 13145, 13150 and 14006, Food and Agricultural Code.

6487.1. Artificial Recharge Basins.

Use of pesticides registered for agricultural, outdoor industrial, and outdoor institutional use containing chemicals listed in section 6800(a) shall be prohibited below the high water line inside artificial recharge basins, unless the pesticide is applied six months or more before the basin is used to recharge ground water.

NOTE: Authority cited: Sections 11456, 12976, 13145, and 14102, Food and Agricultural Code.
Reference: Sections 13145, 13150, and 14102, Food and Agricultural Code.

6487.2. Inside Canal and Ditch Banks.

Use of pesticides registered for agricultural, outdoor industrial, and outdoor institutional use containing chemicals listed in section 6800(a) shall be prohibited below the high water line inside unlined canals and ditches, unless at least one of the following applies:

- (a) the pesticide user can document that the percolation rate of the canal or ditch is equal to or less than 0.2 inches per hour (0.002 gallons per minute per square foot); or
- (b) the pesticide is applied six months before water is run in the canal or ditch.

NOTE: Authority cited: Sections 11456, 12976, 13145, and 14102, Food and Agricultural Code.
Reference: Sections 13145, 13150, and 14102, Food and Agricultural Code.

6487.3. Engineered Rights-of-Way Within Ground Water Protection Areas.

Use of pesticides registered for agricultural, outdoor industrial, and outdoor institutional use containing chemicals listed in section 6800(a) shall be prohibited on engineered rights-of-way in leaching or runoff ground water protection areas unless one of the following management options can be met and is designated by the commissioner on the permit:

- (a) The property operator complies with section 6487.4; or
- (b) Any runoff from the treated right-of-way shall pass through a noncrop fully vegetated area adjacent, and equal in area, to the treated area, or spread out onto an adjacent unenclosed fallow field that is at least 300 feet long and that will not be irrigated for six months following application, with full consideration of any plantback restrictions; or

(c) The property operator complies with any permit issued pursuant to the storm water provisions of the federal Clean Water Act pertaining to the treated area; or

(d) An alternative management practice or pesticide approved by the Director as follows:-

(1) Upon written request, the Director may evaluate and approve use of management practices that are based on scientific data demonstrating their effectiveness in reducing movement of pesticides to ground water; or

(2) Upon written request, the Director may make a determination to allow the interim use of a pesticide containing a chemical listed in section 6800(a) on an engineered right-of-way within a ground water protection area, for a period not to exceed three years. The Director's determination shall be based on evidence that the available management practices are not feasible for a specific crop or site, and that there are no feasible alternatives for the specific crop or site. The formal request shall include a study protocol(s) that is acceptable to the Director to develop feasible alternatives or alternate management practices. The study protocol shall include a description of the objective, personnel, study plan, sampling methods including number of samples to be analyzed, data analysis, chemical analytical methods including appropriate quality control, timetable, and references, if any. The requestor shall submit a written progress report every six months. If the progress report does not support the submitted study protocol(s), or if a report is not submitted, the Director may rescind the determination to allow the use of the pesticide within a ground water protection area.

(3) The Director will issue a public notice stating the reasons interim use has been approved under (1) or (2). The notice will be posted on the Department's Web site.

NOTE: Authority cited: Sections 11456, 12976, 13145, and 14102, Food and Agricultural Code.
Reference: Sections 13145, 13150, and 14102, Food and Agricultural Code.

6487.4. Runoff Ground Water Protection Areas.

Except as provided in sections 6487.1, 6487.2, and 6487.3, use of pesticides registered for agricultural, outdoor industrial, and outdoor institutional use containing chemicals listed in section 6800(a) shall be prohibited in runoff ground water protection areas unless one of the following management practices can be met and is designated by the commissioner on the permit. The management practice identified in (b), "Incorporation of the pesticide," does not apply to bentazon.

(a) Soil disturbance. Within seven days before the pesticide is applied, the soil to be treated shall be disturbed by using a disc, harrow, rotary tiller, or other mechanical method. This subsection does not apply to bentazon, and does not apply to the area to be treated that is immediately adjacent to the crop row and that does not exceed 33 percent of the distance between crop rows; or

(b) Incorporation of the pesticide. Within 48 hours after the day the pesticide is applied, the pesticide shall be incorporated on at least 90 percent of the area treated; using a disc, harrow, rotary tiller, or other mechanical method, or by sprinkler or low flow irrigation, including chemigation if allowed by the label, using a minimum of ¼ inch of irrigation water and a maximum of either one inch or the maximum amount of irrigation water specified on the label, at application rates that do not cause surface water runoff from the treated property or to wells on the treated property. This subsection does not apply to bentazon, and does not apply to the area treated with other pesticides listed in section 6800(a) that is immediately adjacent to the crop row and that does not exceed 33 percent of the distance between crop rows; or

(c) Band treatment. The pesticide shall be applied as a band treatment immediately adjacent to

the crop row so that not more than 33 percent of the distance between rows is treated; or

(d) Timing of application. The pesticide shall be applied between April 1 and July 31; or

(e) Retention of runoff on field. For six months following the application, the field shall be designed, by berms, levees, or nondraining circulation systems, to retain all irrigation runoff and all precipitation on, and drainage through, the field. The retention area on the field shall not have a percolation rate of more than 0.2 inches per hour (5 inches per 24 hours); or

(f) Retention of runoff in a holding area off the field. For six months following the application, all runoff shall be channeled to a holding area off the application site, under the control of the property operator, that is designed to retain all irrigation runoff and all precipitation on, and drainage through, the treated field and all other areas draining into that holding area. The holding area shall not have a percolation rate of more than 0.2 inches per hour (5 inches per 24 hours); or

(g) Runoff onto a fallow field. For six months following application, runoff shall be managed so that it runs off onto an adjacent unenclosed fallow field at least 300 feet long that is not irrigated for six months after application, with full consideration of any plant back restrictions; or

(h) An alternative management practice or pesticide approved by the Director as follows:

(1) Upon written request, the Director may evaluate and approve use of alternative management practices that are based on scientific data demonstrating their effectiveness in reducing movement of pesticides to ground water; or

(2) Upon written request, the Director may make a determination to allow the interim use of a pesticide containing a chemical listed in section 6800(a) within a runoff ground water protection area, for a period not to exceed three years. The Director's determination shall be based on evidence that the available management practices are not feasible for a specific crop or site, and that there are no feasible alternatives for the specific crop or site. The formal request shall include a study protocol(s) that is acceptable to the Director to develop feasible alternatives or alternate mitigation measures. The study protocol shall include a description of the objective, personnel, study plan, sampling methods including number of samples to be analyzed, data analysis, chemical analytical methods including appropriate quality control, timetable, and references, if any. The requester shall submit a written progress report every six months. If the progress report does not support the submitted study protocol(s), or if a report is not submitted, the Director may rescind the determination to allow the use of the pesticide within a ground water protection area.

(3) The Director will issue a public notice stating the reasons interim use has been approved under (1) or (2). The notice will be posted on the Department's Web site.

NOTE: Authority cited: Sections 11456, 12976, 13145, and 14102, Food and Agricultural Code.

Reference: Sections 13145, 13150, and 14102, Food and Agricultural Code.

6487.5. Leaching Ground Water Protection Areas.

Except as provided in sections 6487.1, 6487.2, and 6487.3, use of pesticides registered for agricultural, outdoor industrial, and outdoor institutional use containing chemicals listed in section 6800(a) shall be prohibited in leaching ground water protection areas unless any one of the following management practices can be met and is designated by the commissioner on the permit:

(a) The permittee shall not apply any irrigation water for six months following application of the pesticide; or

(b) The permittee shall apply the pesticide to the planting bed or the berm above the level of irrigation water in the furrow or basin and the water level shall remain at or below that level for six months following application of the pesticide; or

(c) Irrigation shall be managed so that the ratio of the amount of irrigation water applied divided

by the net irrigation requirement is 1.33 or less for six months following application of the pesticide; or

(d) An alternative management practice or pesticide approved by the Director as follows:

(1) Upon written request, the Director may evaluate and approve use of alternative management practices that are based on scientific data demonstrating their effectiveness in reducing movement of pesticides to ground water; or

(2) Upon written request, the Director may make a determination to allow the interim use of a pesticide containing a chemical listed in section 6800(a) within a leaching ground water protection area, for a period not to exceed three years. The Director's determination shall be based on evidence that the available management practices are not feasible for a specific crop or site, and that there are no feasible alternatives for the specific crop or site. The formal request shall include a study protocol(s) that is acceptable to the Director to develop feasible alternatives or alternate management practices. The study protocol shall include a description of the objective, personnel, study plan, sampling methods including number of samples to be analyzed, data analysis, chemical analytical methods including appropriate quality control, timetable, and references, if any. The requester shall submit a written progress report every six months. If the progress report does not support the submitted study protocol(s), or if a report is not submitted, the Director may rescind the determination to allow the use of the pesticide within a ground water protection area.

(3) The Director will issue a public notice stating the reasons interim use has been approved under (1) or (2). The notice will be posted on the Department's Web site.

NOTE: Authority cited: Sections 11456, 12976, 13145, and 14102, Food and Agricultural Code.
Reference: Sections 13145, 13150, and 14102, Food and Agricultural Code.

CHAPTER 3. PEST CONTROL OPERATIONS
SUBCHAPTER 2. WORK REQUIREMENTS
ARTICLE 1. PEST CONTROL OPERATIONS GENERALLY

6609. Wellhead Protection.

(a) Except as provided in subsection (b), the following activities shall be prohibited within 100 feet of a well (including domestic, municipal, agricultural, dry or drainage, monitoring, or abandoned wells):

(1) mixing, loading, and storage of pesticides.

(2) rinsing of spray equipment or pesticide containers.

(3) maintenance of spray equipment that could result in spillage of pesticide residues on the soil.

(4) application of preemergent herbicides.

(b) Wells shall not be subject to the requirements in (a) if they are:

(1) sited so that runoff water from irrigation or rainfall does not move from the perimeter of the wellhead toward the wellhead and contact or collect around any part of the wellhead including the concrete pad or foundation; or

(2) protected by a berm constructed of any material sufficient to prevent movement of surface runoff water from the perimeter of the wellhead to the wellhead.

(c) Application of preemergent herbicides shall be prohibited between the berm and the wellhead.

NOTE: Authority cited: Sections 11456, 12976, and 14102, Food and Agricultural Code.
Reference: Sections 11501 and 14102, Food and Agricultural Code.

CHAPTER 4. ENVIRONMENTAL PROTECTION
SUBCHAPTER 1. GROUNDWATER
ARTICLE 1. PESTICIDE CONTAMINATION PREVENTION

6800. Groundwater Protection List.

Pesticides labeled for agricultural, outdoor institutional or outdoor industrial use that contain any of the following chemicals are designated as having the potential to pollute ground water:

(a) The following chemicals detected in ground water or soil pursuant to section 13149 of the Food and Agricultural Code:

- (1) Atrazine
- (2) Simazine
- (3) Bromacil
- (4) Diuron, except for products with less than 7% diuron that are applied to foliage
- (5) Prometon
- (6) Bentazon (Basagran®)
- (7) Norflurazon

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NOTE: Authority cited: Sections 11456, ~~12976~~, 13145, Food and Agricultural Code.
Reference: Sections 13144, 13145, and 13149, Food and Agricultural Code.